#### **Union Calendar No. 217**

106TH CONGRESS 1ST SESSION

H.R. 795

[Report No. 106-374]

# A BILL

To provide for the settlement of the water rights claims of the Chippewa Cree Tribe of the Rocky Boy's Reservation, and for other purposes.

OCTOBER 12, 1999

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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#### IN THE HOUSE OF REPRESENTATIVES

February 23, 1999

Mr. Hill of Montana introduced the following bill; which was referred to the Committee on Resources

October 12, 1999

Additional sponsors: Mr. Young of Alaska, Mr. Kildee, and Mr. Hayworth

October 12, 1999

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic] [For text of introduced bill, see copy of bill as introduced on February 23, 1999]

# A BILL

To provide for the settlement of the water rights claims of the Chippewa Cree Tribe of the Rocky Boy's Reservation, and for other purposes.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,

### 1 SECTION 1. SHORT TITLE.

2	This Act may be cited as the "Chippewa Cree Tribe
3	of The Rocky Boy's Reservation Indian Reserved Water
4	Rights Settlement and Water Supply Enhancement Act of
5	1999".
6	SEC. 2. FINDINGS.
7	Congress finds that—
8	(1) in fulfillment of its trust responsibility to In-
9	dian tribes and to promote tribal sovereignty and eco-
10	nomic self-sufficiency, it is the policy of the United
11	States to settle the water rights claims of the tribes
12	without lengthy and costly litigation;
13	(2) the Rocky Boy's Reservation was established
14	as a homeland for the Chippewa Cree Tribe;
15	(3) adequate water for the Chippewa Cree Tribe
16	of the Rocky Boy's Reservation is important to a per-
17	manent, sustainable, and sovereign homeland for the
18	Tribe and its members;
19	(4) the sovereignty of the Chippewa Cree Tribe
20	and the economy of the Reservation depend on the de-
21	velopment of the water resources of the Reservation;
22	(5) the planning, design, and construction of the

(5) the planning, design, and construction of the facilities needed to utilize water supplies effectively are necessary to the development of a viable Reservation economy and to implementation of the Chippewa Cree-Montana Water Rights Compact;

- 1 (6) the Rocky Boy's Reservation is located in a 2 water-short area of Montana and it is appropriate 3 that the Act provide funding for the development of 4 additional water supplies, including domestic water, 5 to meet the needs of the Chippewa Cree Tribe;
  - (7) proceedings to determine the full extent of the water rights of the Chippewa Cree Tribe are currently pending before the Montana Water Court as a part of the case "In the Matter of the Adjudication of All Rights to the Use of Water, Both Surface and Underground, within the State of Montana";
  - (8) recognizing that final resolution of the general stream adjudication will take many years and entail great expense to all parties, prolong uncertainty as to the availability of water supplies, and seriously impair the long-term economic planning and development of all parties, the Chippewa Cree Tribe and the State of Montana entered into the Compact on April 14, 1997; and
  - (9) the allocation of water resources from the Tiber Reservoir to the Chippewa Cree Tribe under this Act is uniquely suited to the geographic, social, and economic characteristics of the area and situation involved.

## 1 SEC. 3. PURPOSES.

2	The purposes of this Act are as follows:
3	(1) To achieve a fair, equitable, and final settle-
4	ment of all claims to water rights in the State of
5	Montana for—
6	(A) the Chippewa Cree Tribe; and
7	(B) the United States for the benefit of the
8	Chippewa Cree Tribe.
9	(2) To approve, ratify, and confirm, as modified
10	in this Act, the Chippewa Cree-Montana Water
11	Rights Compact entered into by the Chippewa Cree
12	Tribe of the Rocky Boy's Reservation and the State
13	of Montana on April 14, 1997, and to provide fund-
14	ing and other authorization necessary for the imple-
15	mentation of the Compact.
16	(3) To authorize the Secretary of the Interior to
17	execute and implement the Compact referred to in
18	paragraph (2) and to take such other actions as are
19	necessary to implement the Compact in a manner
20	consistent with this Act.
21	(4) To authorize Federal feasibility studies de-
22	signed to identify and analyze potential mechanisms
23	to enhance, through conservation or otherwise, water
24	supplies in north central Montana, including mecha-
25	nisms to import domestic water supplies for the fu-
26	ture growth of the Rocky Boy's Indian Reservation.

1	(5) To authorize certain projects on the Rocky
2	Boy's Indian Reservation, Montana, in order to im-
3	plement the Compact.
4	(6) To authorize certain modifications to the
5	purposes and operation of the Bureau of Reclama-
6	tion's Tiber Dam and Lake Elwell on the Marias
7	River in Montana in order to provide the Tribe with
8	an allocation of water from Tiber Reservoir.
9	(7) To authorize the appropriation of funds nec-
10	essary for the implementation of the Compact.
11	SEC. 4. DEFINITIONS.
12	In this Act:
13	(1) Act.—The term "Act" means the "Chippewa
14	Cree Tribe of The Rocky Boy's Reservation Indian
15	Reserved Water Rights Settlement and Water Supply
16	Enhancement Act of 1999".
17	(2) Compact.—The term "Compact" means the
18	water rights compact between the Chippewa Cree
19	Tribe of the Rocky Boy's Reservation and the State
20	of Montana contained in section 85-20-601 of the
21	Montana Code Annotated (1997).
22	(3) Final.—The term "final" with reference to
23	approval of the decree in section 101(b) means com-
24	pletion of any direct appeal to the Montana Supreme

Court of a final decree by the Water Court pursuant

- to section 85–2–235 of the Montana Code Annotated

  (1997), or to the Federal Court of Appeals, including
  the expiration of the time in which a petition for certiorari may be filed in the United States Supreme
  Court, denial of such a petition, or the issuance of the
  - (4) Fund.—The term "Fund" means the Chippewa Cree Indian Reserved Water Rights Settlement Fund established under section 104.

Supreme Court's mandate, whichever occurs last.

- (5) Indian tribe.—The term "Indian tribe" has the meaning given that term in section 101(2) of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a(2)).
- (6) MR&I FEASIBILITY STUDY.—The term "MR&I feasibility study" means a municipal, rural, and industrial, domestic, and incidental drought relief feasibility study described in section 202.
- (7) MISSOURI RIVER SYSTEM.—The term "Missouri River System" means the mainstem of the Missouri River and its tributaries, including the Marias River.
- (8) Reclamation Law.—The term "Reclamation Law" has the meaning given the term "reclamation law" in section 4 of the Act of December 5, 1924 (43 Stat. 701, chapter 4; 43 U.S.C. 371).

1	(9) Rocky boy's reservation; reservation.—
2	The term "Rocky Boy's Reservation" or "Reserva-
3	tion" means the Rocky Boy's Reservation of the Chip-
4	pewa Cree Tribe in Montana.
5	(10) Secretary.—The term "Secretary" means
6	the Secretary of the Interior, or his or her duly au-
7	thorized representative.
8	(11) Towe Ponds.—The term "Towe Ponds"
9	means the reservoir or reservoirs referred to as
10	"Stoneman Reservoir" in the Compact.
11	(12) Tribal compact administration.—The
12	term "Tribal Compact Administration" means the ac-
13	tivities assumed by the Tribe for implementation of
14	the Compact as set forth in Article IV of the Compact.
15	(13) Tribal water code.—The term "tribal
16	water code" means a water code adopted by the Tribe,
17	as provided in the Compact.
18	(14) Tribal water right.—
19	(A) In General.—The term "Tribal Water
20	Right" means the water right set forth in section
21	85–20–601 of the Montana Code Annotated
22	(1997) and includes the water allocation set forth
23	in title II of this Act.
24	(B) Rule of construction.—The defini-
25	tion of the term "Tribal Water Right" under this

- 1 paragraph and the treatment of that right under 2 this Act shall not be construed or interpreted as 3 a precedent for the litigation of reserved water 4 rights or the interpretation or administration of 5 future compacts between the United States and 6 the State of Montana or any other State.
- (15) Tribe.—The term "Tribe" means the Chip-7 8 pewa Cree Tribe of the Rocky Boy's Reservation and 9 all officers, agents, and departments thereof.
- (16) Water Development.—The term "water 10 11 development" includes all activities that involve the 12 use of water or modification of water courses or water 13 bodies in any way.

#### 14 SEC. 5. MISCELLANEOUS PROVISIONS.

- 15 (a) Nonexercise of Tribe's Rights.—Pursuant to Tribal Resolution No. 40–98, and in exchange for benefits 16 under this Act, the Tribe shall not exercise the rights set forth in Article VII.A.3 of the Compact, except that in the event that the approval, ratification, and confirmation of the Compact by the United States becomes null and void 21 under section 101(b), the Tribe shall have the right to exer-22 cise the rights set forth in Article VII.A.3 of the Compact.
- (b) Waiver of Sovereign Immunity.—Except to the extent provided in subsections (a), (b), and (c) of section 208 of the Department of Justice Appropriation Act, 1953

1	(43 U.S.C. 666), nothing in this Act may be construed to
2	waive the sovereign immunity of the United States.
3	(c) Tribal Release of Claims Against the
4	United States.—
5	(1) In general.—Pursuant to Tribal Resolution
6	No. 40–98, and in exchange for benefits under this
7	Act, the Tribe shall, on the date of enactment of this
8	Act, execute a waiver and release of the claims de-
9	scribed in paragraph (2) against the United States,
10	the validity of which are not recognized by the United
11	States, except that—
12	(A) the waiver and release of claims shall
13	not become effective until the appropriation of
14	the funds authorized in section 105, the water al-
15	location in section 201, and the appropriation of
16	funds for the MR&I feasibility study authorized
17	in section 204 have been completed and the de-
18	cree has become final in accordance with the re-
19	quirements of section 101(b); and
20	(B) in the event that the approval, ratifica-
21	tion, and confirmation of the Compact by the
22	United States becomes null and void under sec-
23	tion 101(b), the waiver and release of claims
24	shall become null and void.

1	(2) Claims described.—The claims referred to
2	in paragraph (1) are as follows:
3	(A) Any and all claims to water rights (in-
4	cluding water rights in surface water, ground
5	water, and effluent), claims for injuries to water
6	rights, claims for loss or deprivation of use of
7	water rights, and claims for failure to acquire or
8	develop water rights for lands of the Tribe from
9	time immemorial to the date of ratification of
10	the Compact by Congress.
11	(B) Any and all claims arising out of the
12	negotiation of the Compact and the settlement
13	authorized by this Act.
14	(3) Setoffs.—In the event the waiver and re-
15	lease do not become effective as set forth in paragraph
16	(1)—
17	(A) the United States shall be entitled to
18	setoff against any claim for damages asserted by
19	the Tribe against the United States, any funds
20	transferred to the Tribe pursuant to section 104,
21	and any interest accrued thereon up to the date
22	of setoff; and
23	(B) the United States shall retain any other
24	claims or defenses not waived in this Act or in
25	the Compact as modified by this Act.

- 1 (d) Other Tribes Not Adversely Affected.—
- 2 Nothing in this Act is intended to quantify or otherwise
- 3 adversely affect the land and water rights, or claims or enti-
- 4 tlements to land or water of an Indian tribe other than
- 5 the Chippewa Cree Tribe.
- 6 (e) Environmental Compliance.—In implementing
- 7 the Compact, the Secretary shall comply with all aspects
- 8 of the National Environmental Policy Act of 1969 (42
- 9 U.S.C. 4321 et seq.), the Endangered Species Act of 1973
- 10 (16 U.S.C. 1531 et seq.), and all other applicable environ-
- 11 mental Acts and regulations.
- 12 (f) EXECUTION OF COMPACT.—The execution of the
- 13 Compact by the Secretary as provided for in this Act shall
- 14 not constitute a major Federal action under the National
- 15 Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
- 16 The Secretary is directed to carry out all necessary environ-
- 17 mental compliance required by Federal law in imple-
- 18 menting the Compact.
- 19 (g) Congressional Intent.—Nothing in this Act is
- 20 intended to prohibit the Tribe from seeking additional au-
- 21 thorization or appropriation of funds for tribal programs
- 22 or purposes.
- 23 (h) ACT NOT PRECEDENTIAL.—Nothing in this Act
- 24 shall be construed or interpreted as a precedent for the liti-

1	gation of reserved water rights or the interpretation or ad-
2	ministration of future water settlement Acts.
3	TITLE I—CHIPPEWA CREE TRIBE
4	OF THE ROCKY BOY'S RES-
5	ERVATION INDIAN RESERVED
6	WATER RIGHTS SETTLEMENT
7	SEC. 101. RATIFICATION OF COMPACT AND ENTRY OF DE-
8	CREE.
9	(a) Water Rights Compact Approved.—Except as
10	modified by this Act, and to the extent the Compact does
11	not conflict with this Act—
12	(1) the Compact, entered into by the Chippewa
13	Cree Tribe of the Rocky Boy's Reservation and the
14	State of Montana on April 14, 1997, is hereby ap-
15	proved, ratified, and confirmed; and
16	(2) the Secretary shall—
17	(A) execute and implement the Compact to-
18	gether with any amendments agreed to by the
19	parties or necessary to bring the Compact into
20	conformity with this Act; and
21	(B) take such other actions as are necessary
22	to implement the Compact.
23	(b) Approval of Decree.—
24	(1) In general.—Not later than 180 days after
25	the date of enactment of this Act, the United States,

- the Tribe, or the State of Montana shall petition the
  Montana Water Court, individually or jointly, to
  enter and approve the decree agreed to by the United
  States, the Tribe, and the State of Montana attached
  as Appendix 1 to the Compact, or any amended
  version thereof agreed to by the United States, the
  Tribe, and the State of Montana.
  - (2) RESORT TO THE FEDERAL DISTRICT COURT.—Under the circumstances set forth in Article VII.B.4 of the Compact, 1 or more parties may file an appropriate motion (as provided in that article) in the United States district court of appropriate jurisdiction.
  - (3) EFFECT OF FAILURE OF APPROVAL TO BE-COME FINAL.—In the event the approval by the appropriate court, including any direct appeal, does not become final within 3 years after the filing of the decree, or the decree is approved but is subsequently set aside by the appropriate court—
    - (A) the approval, ratification, and confirmation of the Compact by the United States shall be null and void; and
- 23 (B) except as provided in sections 105(e)(1), 24 5(a), and 5(c)(3), this Act shall be of no further 25 force and effect.

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1	SEC. 102. USE AND TRANSFER OF THE TRIBAL WATER
2	RIGHT.
3	(a) Administration and Enforcement.—As pro-
4	vided in the Compact, until the adoption and approval of
5	a tribal water code by the Tribe, the Secretary shall admin-
6	ister and enforce the Tribal Water Right.
7	(b) Tribal Member Entitlement.—
8	(1) In general.—Any entitlement to Federal
9	Indian reserved water of any tribal member shall be
10	satisfied solely from the water secured to the Tribe by
11	the Compact and shall be governed by the terms and
12	conditions of the Compact.
13	(2) Administration.—An entitlement described
14	in paragraph (1) shall be administered by the Tribe
15	pursuant to a tribal water code developed and adopt-
16	ed pursuant to Article IV.A.2 of the Compact, or by
17	the Secretary pending the adoption and approval of
18	the tribal water code.
19	(c) Temporary Transfer of Tribal Water
20	RIGHT.—Notwithstanding any other provision of statutory
21	or common law, the Tribe may, with the approval of the
22	Secretary and subject to the limitations and conditions set
23	forth in the Compact, including limitation on transfer of
24	any portion of the Tribal Water Right to within the Mis-
25	souri River Basin, enter into a service contract, lease, ex-

26 change, or other agreement providing for the temporary de-

livery, use, or transfer of the water rights confirmed to the Tribe in the Compact, except that no service contract, lease, 3 exchange, or other agreement entered into under this subsection may permanently alienate any portion of the Tribal 4 Water Right. SEC. 103. ON-RESERVATION WATER RESOURCES DEVELOP-7 MENT. 8 Water Development Projects.—The Secretary, through the Bureau of Reclamation, is authorized 10 and directed to plan, design, and construct, or to provide, pursuant to subsection (b), for the planning, design, and 12 construction of the following water development projects on the Rocky Boy's Reservation: 13 14 (1) Bonneau Dam and Reservoir Enlargement. 15 (2) East Fork of Beaver Creek Dam Repair and 16 Enlargement. 17 (3) Brown's Dam Enlargement. 18 (4) Towe Ponds' Enlargement. 19 (5) Such other water development projects as the 20 Tribe shall from time to time consider appropriate. 21 (b) Implementation Agreement.—The Secretary, at

25 Tribe's annual funding agreement entered into under the

the request of the Tribe, shall enter into an agreement, or,

if appropriate, renegotiate an existing agreement, with the

Tribe to implement the provisions of this Act through the

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1	self-governance program under title IV of the Indian Self-
2	Determination and Education Assistance Act (25 U.S.C.
3	458aa et seq.) by which the Tribe shall plan, design, and
4	construct any or all of the projects authorized by this sec-
5	tion.
6	(c) Bureau of Reclamation Project Administra-
7	TION.—
8	(1) In general.—Congress finds that the Sec-
9	retary, through the Bureau of Reclamation, has en-
10	tered into an agreement with the Tribe, pursuant to
11	title IV of the Indian Self-Determination and Edu-
12	cation Assistance Act (25 U.S.C. 458aa et seq.)—
13	(A) defining and limiting the role of the
14	Bureau of Reclamation in its administration of
15	the projects authorized in subsection (a);
16	(B) establishing the standards upon which
17	the projects will be constructed; and
18	(C) for other purposes necessary to imple-
19	ment this section.
20	(2) AGREEMENT.—The agreement referred to in
21	paragraph (1) shall become effective when the Tribe
22	exercises its right under subsection (b).
23	SEC. 104. CHIPPEWA CREE INDIAN RESERVED WATER
24	RIGHTS SETTLEMENT TRUST FUND.
25	(a) Establishment of Trust Fund —

1	(1) In general.—
2	(A) Establishment.—There is hereby es-
3	tablished in the Treasury of the United States a
4	trust fund for the Chippewa Cree Tribe of the
5	Rocky Boy's Reservation to be known as the
6	"Chippewa Cree Indian Reserved Water Rights
7	Settlement Trust Fund".
8	(B) Availability of amounts in fund.—
9	(i) In General.—Amounts in the
10	Fund shall be available to the Secretary for
11	management and investment on behalf of
12	the Tribe and distribution to the Tribe in
13	accordance with this Act.
14	(ii) AVAILABILITY.—Funds made
15	available from the Fund under this section
16	shall be available without fiscal year limita-
17	tion.
18	(2) Management of fund.—The Secretary
19	shall deposit and manage the principal and interest
20	in the Fund in a manner consistent with subsection
21	(b) and other applicable provisions of this Act.
22	(3) Contents of fund.—The Fund shall con-
23	sist of the amounts authorized to be appropriated to
24	the Fund under section 105(a) and such other

1	amounts as may be transferred or credited to the
2	Fund.
3	(4) WITHDRAWAL.—The Tribe, with the ap-
4	proval of the Secretary, may withdraw the Fund and
5	deposit it in a mutually agreed upon private finan-
6	cial institution. That withdrawal shall be made pur-
7	suant to the American Indian Trust Fund Manage-
8	ment Reform Act of 1994 (25 U.S.C. 4001 et seq.).
9	(5) Accounts.—The Secretary of the Interior
10	shall establish the following accounts in the Fund and
11	shall allocate appropriations to the various accounts
12	as required in this Act:
13	(A) The Tribal Compact Administration
14	Account.
15	(B) The Economic Development Account.
16	(C) The Future Water Supply Facilities Ac-
17	count.
18	(b) Fund Management.—
19	(1) In general.—
20	(A) Amounts in fund.—The Fund shall
21	consist of such amounts as are appropriated to
22	the Fund and allocated to the accounts of the
23	Fund by the Secretary as provided in this Act
24	and in accordance with the authorizations for
25	appropriations in paragraphs (1), (2), and (3)

1	of section 105(a), together with all interest that
2	accrues in the Fund.
3	(B) Management by secretary.—The
4	Secretary shall manage the Fund, make invest-
5	ments from the Fund, and make available funds
6	from the Fund for distribution to the Tribe in a
7	manner consistent with the American Indian
8	Trust Fund Management Reform Act of 1994 (25
9	U.S.C. 4001 et seq.).
10	(2) Tribal management.—
11	(A) In general.—If the Tribe exercises its
12	right pursuant to subsection (a)(4) to withdraw
13	the Fund and deposit it in a private financial
14	institution, except as provided in the withdrawal
15	plan, neither the Secretary nor the Secretary of
16	the Treasury shall retain any oversight over or
17	liability for the accounting, disbursement, or in-
18	vestment of the funds.
19	(B) WITHDRAWAL PLAN.—The withdrawal
20	plan shall provide for—
21	(i) the creation of accounts and alloca-
22	tion to accounts in a fund established under
23	the plan in a manner consistent with sub-
24	section (a); and

1	(ii) the appropriate terms and condi-
2	tions, if any, on expenditures from the
3	Fund (in addition to the requirements of
4	the plans set forth in paragraphs (2) and
5	(3) of subsection $(c)$ ).
6	(c) USE OF FUND.—The Tribe shall use the Fund to
7	fulfill the purposes of this Act, subject to the following re-
8	strictions on expenditures:
9	(1) Except for \$400,000 necessary for capital ex-
10	penditures in connection with Tribal Compact Ad-
11	ministration, only interest accrued on the Tribal
12	Compact Administration Account referred to in sub-
13	section $(a)(5)(A)$ shall be available to satisfy the
14	Tribe's obligations for Tribal Compact Administra-
15	tion under the provisions of the Compact.
16	(2) Both principal and accrued interest on the
17	Economic Development Account referred to in sub-
18	section (a)(5)(B) shall be available to the Tribe for ex-
19	penditure pursuant to an economic development plan
20	approved by the Secretary.
21	(3) Both principal and accrued interest on the
22	Future Water Supply Facilities Account referred to
23	in subsection (a)(5)(C) shall be available to the Tribe
24	for expenditure pursuant to a water supply plan ap-

proved by the Secretary.

1	(d) Investment of Fund.—
2	(1) In general.—
3	(A) APPLICABLE LAWS.—The Secretary
4	shall invest amounts in the Fund in accordance
5	with—
6	(i) the Act of April 1, 1880 (21 Stat.
7	70, chapter 41; 25 U.S.C. 161);
8	(ii) the first section of the Act entitled
9	"An Act to authorize the payment of inter-
10	est of certain funds held in trust by the
11	United States for Indian tribes", approved
12	February 12, 1929 (25 U.S.C. 161a); and
13	(iii) the first section of the Act entitled
14	"An Act to authorize the deposit and invest-
15	ment of Indian funds", approved June 24,
16	1938 (25 U.S.C. 162a).
17	(B) Crediting of amounts to the
18	FUND.—The interest on, and the proceeds from
19	the sale or redemption of, any obligations of the
20	United States held in the Fund shall be credited
21	to and form part of the Fund. The Secretary of
22	the Treasury shall credit to each of the accounts
23	contained in the Fund a proportionate amount
24	of that interest and proceeds.
25	(2) Certain withdrawn funds —

- 1 GENERAL.—Amounts withdrawn (A)IN2 from the Fund and deposited in a private finan-3 cial institution pursuant to a withdrawal plan 4 approved by the Secretary under the American 5 Indian Trust Fund Management Reform Act of 6 1994 (25 U.S.C. 4001 et seg.) shall be invested 7 by an appropriate official under that plan.
- 8 (B) Deposit of interest and pro-9 CEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held 10 11 under this paragraph shall be deposited in the 12 private financial institution referred to in sub-13 paragraph (A) in the fund established pursuant 14 to the withdrawal plan referred to in that sub-15 paragraph. The appropriate official shall credit 16 to each of the accounts contained in that fund a 17 proportionate amount of that interest and pro-18 ceeds.
- 19 (e) AGREEMENT REGARDING FUND EXPENDITURES.—
  20 If the Tribe does not exercise its right under subsection
  21 (a)(4) to withdraw the funds in the Fund and transfer those
  22 funds to a private financial institution, the Secretary shall
  23 enter into an agreement with the Tribe providing for appro24 priate terms and conditions, if any, on expenditures from

1	the Fund in addition to the plans set forth in paragraphs
2	(2) and (3) of subsection (c).
3	(f) Per Capita Distributions Prohibited.—No
4	part of the Fund shall be distributed on a per capita basis
5	to members of the Tribe.
6	SEC. 105. AUTHORIZATION OF APPROPRIATIONS.
7	(a) Chippewa Cree Fund.—There is authorized to
8	be appropriated for the Fund, \$21,000,000 to be allocated
9	by the Secretary as follows:
10	(1) Tribal compact administration ac-
11	COUNT.—For Tribal Compact Administration as-
12	sumed by the Tribe under the Compact and this Act,
13	\$3,000,000 is authorized to be appropriated for fiscal
14	year 2000.
15	(2) Economic development account.—For
16	tribal economic development, \$3,000,000 is authorized
17	to be appropriated for fiscal year 2000.
18	(3) Future water supply facilities ac-
19	COUNT.—For the total Federal contribution to the
20	planning, design, construction, operation, mainte-
21	nance, and rehabilitation of a future water supply
22	system for the Reservation, there are authorized to be
23	appropriated—
24	(A) \$2,000,000 for fiscal year 2000;
25	(B) \$8,000,000 for fiscal year 2001: and

1	(C) \$5,000,000 for fiscal year 2002.
2	(b) On-Reservation Water Development.—
3	(1) In general.—There are authorized to be ap-
4	propriated to the Department of the Interior, for the
5	Bureau of Reclamation, for the construction of the on-
6	Reservation water development projects authorized by
7	section 103—
8	(A) \$13,000,000 for fiscal year 2000, for the
9	planning, design, and construction of the
10	Bonneau Dam Enlargement, for the development
11	of additional capacity in Bonneau Reservoir for
12	storage of water secured to the Tribe under the
13	Compact;
14	(B) \$8,000,000 for fiscal year 2001, for the
15	planning, design, and construction of the East
16	Fork Dam and Reservoir enlargement, of the
17	Brown's Dam and Reservoir enlargement, and of
18	the Towe Ponds enlargement of which—
19	(i) \$4,000,000 shall be used for the
20	East Fork Dam and Reservoir enlargement;
21	(ii) \$2,000,000 shall be used for the
22	Brown's Dam and Reservoir enlargement;
23	and
24	(iii) \$2,000,000 shall be used for the
25	Towe Ponds enlargement; and

1	(C) \$3,000,000 for fiscal year 2002, for the
2	planning, design, and construction of such other
3	water resource developments as the Tribe, with
4	the approval of the Secretary, from time to time
5	may consider appropriate or for the completion
6	of the 4 projects enumerated in subparagraphs
7	(A) and (B) of paragraph (1).
8	(2) Unexpended Balances.—Any unexpended
9	balance in the funds authorized to be appropriated
10	under subparagraph (A) or (B) of paragraph (1),
11	after substantial completion of all of the projects enu-
12	merated in paragraphs (1) through (4) of section
13	103(a)—
14	(A) shall be available to the Tribe first for
15	completion of the enumerated projects; and
16	(B) then for other water resource develop-
17	ment projects on the Reservation.
18	(c) Administration Costs.—There is authorized to
19	be appropriated to the Department of the Interior, for the
20	Bureau of Reclamation, \$1,000,000 for fiscal year 2000, for
21	the costs of administration of the Bureau of Reclamation
22	under this Act, except that—
23	(1) if those costs exceed \$1,000,000, the Bureau
24	of Reclamation may use funds authorized for appro-
25	priation under subsection (b) for costs; and

1 (2) the Bureau of Reclamation shall exercise its 2 best efforts to minimize those costs to avoid expendi-3 tures for the costs of administration under this Act 4 that exceed a total of \$1,000,000.

#### (d) AVAILABILITY OF FUNDS.—

- (1) In General.—The amounts authorized to be appropriated to the Fund and allocated to its accounts pursuant to subsection (a) shall be deposited into the Fund and allocated immediately on appropriation.
- (2) Investments.—Investments may be made from the Fund pursuant to section 104(d).
- (3) AVAILABILITY OF CERTAIN MONEYS.—The amounts authorized to be appropriated in subsection (a)(1) shall be available for use immediately upon appropriation in accordance with subsection 104(c)(1).
- (4) LIMITATION.—Those moneys allocated by the Secretary to accounts in the Fund or in a fund established under section 104(a)(4) shall draw interest consistent with section 104(d), but the moneys authorized to be appropriated under subsection (b) and paragraphs (2) and (3) of subsection (a) shall not be available for expenditure until the requirements of section 101(b) have been met so that the decree has be-

1 come final and the Tribe has executed the waiver and 2 release required under section 5(c).

#### (e) Return of Funds to the Treasury—

- (1) In GENERAL.—In the event that the approval, ratification, and confirmation of the Compact by the United States becomes null and void under section 101(b), all unexpended funds appropriated under the authority of this Act together with all interest earned on such funds, notwithstanding whether the funds are held by the Tribe, a private institution, or the Secretary, shall revert to the general fund of the Treasury 12 months after the expiration of the dead-line established in section 101(b).
- (2) Inclusion in agreements and plan.—The requirements in paragraph (1) shall be included in all annual funding agreements entered into under the self-governance program under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.), withdrawal plans, withdrawal agreements, or any other agreements for withdrawal or transfer of the funds to the Tribe or a private financial institution under this Act.
- 23 (f) WITHOUT FISCAL YEAR LIMITATION.—All money 24 appropriated pursuant to authorizations under this title 25 shall be available without fiscal year limitation.

1	SEC. 106. STATE CONTRIBUTIONS TO SETTLEMENT.
2	Consistent with Articles VI.C.2 and C.3 of the Com-
3	pact, the State contribution to settlement shall be as follows:
4	(1) The contribution of \$150,000 appropriated
5	by Montana House Bill 6 of the 55th Legislative Ses-
6	sion (1997) shall be used for the following purposes:
7	(A) Water quality discharge monitoring
8	wells and monitoring program.
9	(B) A diversion structure on Big Sandy
10	Creek.
11	(C) A conveyance structure on Box Elder
12	Creek.
13	(D) The purchase of contract water from
14	Lower Beaver Creek Reservoir.
15	(2) Subject to the availability of funds, the State
16	shall provide services valued at \$400,000 for adminis-
17	tration required by the Compact and for water qual-
18	ity sampling required by the Compact.
19	TITLE II—TIBER RESERVOIR AL-
20	LOCATION AND FEASIBILITY
21	STUDIES AUTHORIZATION
22	SEC. 201. TIBER RESERVOIR.
23	(a) Allocation of Water to the Tribe.—
24	(1) In general.—The Secretary shall perma-
25	nently allocate to the Tribe, without cost to the Tribe,
26	10,000 acre-feet per year of stored water from the

- 1 water right of the Bureau of Reclamation in Lake 2 Elwell, Lower Marias Unit, Upper Missouri Division, 3 Pick-Sloan Missouri Basin Program, Montana, measured at the outlet works of the dam or at the diversion 5 point from the reservoir. The allocation shall become 6 effective when the decree referred to in section 101(b) 7 has become final in accordance with that section. The 8 allocation shall be part of the Tribal Water Right and 9 subject to the terms of this Act.
  - (2) AGREEMENT.—The Secretary shall enter into an agreement with the Tribe setting forth the terms of the allocation and providing for the Tribe's use or temporary transfer of water stored in Lake Elwell, subject to the terms and conditions of the Compact and this Act.
    - (3) Prior reserved water rights, —The allocation provided in this section shall be subject to the prior reserved water rights, if any, of any Indian tribe, or person claiming water through any Indian tribe.
- 21 (b) Use and Temporary Transfer of Alloca-22 tion.—
- 23 (1) IN GENERAL.—Subject to the limitations and 24 conditions set forth in the Compact and this Act, the 25 Tribe shall have the right to devote the water allocated

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- by this section to any use, including agricultural,
   municipal, commercial, industrial, mining, or rec reational uses, within or outside the Rocky Boy's Res-
- 4 ervation.
- 4 ervation.
- Contracts and agreements.—Notwith-6 standing any other provision of statutory or common 7 law, the Tribe may, with the approval of the Secretary and subject to the limitations and conditions 8 9 set forth in the Compact, enter into a service contract, 10 lease, exchange, or other agreement providing for the 11 temporary delivery, use, or transfer of the water allo-12 cated by this section, except that no such service con-13 tract, lease, exchange, or other agreement may perma-14 nently alienate any portion of the tribal allocation.
- 15 (c) Remaining Storage.—The United States shall re-16 tain the right to use for any authorized purpose, any and 17 all storage remaining in Lake Elwell after the allocation 18 made to the Tribe in subsection 201(a).
- 19 (d) Water Transport Obligation; Development 20 and Delivery Costs.—The United States shall have no 21 responsibility or obligation to provide any facility for the 22 transport of the water allocated by this section to the Rocky 23 Boy's Reservation or to any other location. Except for the 24 contribution set forth in subsection 105(a)(3), the cost of 25 developing and delivering the water allocated by this title

1	or any other supplemental water to the Rocky Boy's Res-
2	ervation shall not be borne by the United States.
3	(e) Section Not Precedential.—The provisions of
4	this section regarding the allocation of water resources from
5	the Tiber Reservoir to the Tribe shall not be construed as
6	precedent in the litigation or settlement of any other Indian
7	water right claims.
8	SEC. 202. MUNICIPAL, RURAL, AND INDUSTRIAL FEASI-
9	BILITY STUDY.
10	(a) Authorization.—
11	(1) In General.—
12	(A) STUDY.—The Secretary, through the
13	Bureau of Reclamation, shall perform an MR&I
14	feasibility study of water and related resources
15	in north central Montana to evaluate alter-
16	natives for a municipal, rural, and industrial
17	supply for the Rocky Boy's Reservation.
18	(B) Use of funds made available for
19	FISCAL YEAR 1999.—The authority under sub-
20	paragraph (A) shall be deemed to apply to
21	MR&I feasibility study activities for which funds
22	were made available by appropriations for fiscal
23	year 1999.
24	(2) Contents of study.—The MR&I feasibility
25	study shall include the feasibility of releasing the

- 1 Tribe's Tiber allocation as provided in section 201 2 into the Missouri River System for later diversion to 3 a treatment and delivery system for the Rocky Boy's 4 Reservation.
- 5 (3) UTILIZATION OF EXISTING STUDIES.—The
  6 MR&I feasibility study shall include utilization of ex7 isting Federal and non-Federal studies and shall be
  8 planned and conducted in consultation with other
  9 Federal agencies, the State of Montana, and the Chip10 pewa Cree Tribe.
- 11 (b) ACCEPTANCE OR PARTICIPATION IN IDENTIFIED
  12 OFF-RESERVATION SYSTEM.—The United States, the Chip13 pewa Cree Tribe of the Rocky Boy's Reservation, and the
  14 State of Montana shall not be obligated to accept or partici15 pate in any potential off-Reservation water supply system
  16 identified in the MR&I feasibility study authorized in sub17 section (a).
- 18 SEC. 203. REGIONAL FEASIBILITY STUDY.
- 19 (a) In General.—
- 20 (1) STUDY.—The Secretary, through the Bureau 21 of Reclamation, shall conduct, pursuant to Reclama-22 tion Law, a regional feasibility study (referred to in 23 this subsection as the "regional feasibility study") to 24 evaluate water and related resources in north central 25 Montana in order to determine the limitations of

1	those resources and how those resources can best be
2	managed and developed to serve the needs of the citi-
3	zens of Montana.
4	(2) Use of funds made available for fiscal
5	YEAR 1999.—The authority under paragraph (1) shall
6	be deemed to apply to regional feasibility study ac-
7	tivities for which funds were made available by ap-
8	propriations for fiscal year 1999.
9	(b) Contents of Study.—The regional feasibility
10	study shall—
11	(1) evaluate existing and potential water sup-
12	plies, uses, and management;
13	(2) identify major water-related issues, including
14	environmental, water supply, and economic issues;
15	(3) evaluate opportunities to resolve the issues
16	referred to in paragraph (2); and
17	(4) evaluate options for implementation of reso-
18	lutions to the issues.
19	(c) Requirements.—Because of the regional and
20	international impact of the regional feasibility study, the
21	study may not be segmented. The regional study shall—
22	(1) utilize, to the maximum extent possible, ex-
23	isting information; and

1	(2) be planned and conducted in consultation
2	with all affected interests, including interests in Can-
3	ada.
4	SEC. 204. AUTHORIZATION OF APPROPRIATIONS FOR FEA-
5	SIBILITY STUDIES.
6	(a) Fiscal Year 1999 Appropriations.—Of the
7	amounts made available by appropriations for fiscal year
8	1999 for the Bureau of Reclamation, \$1,000,000 shall be
9	used for the purpose of commencing the MR&I feasibility
10	study under section 202 and the regional study under sec-
11	tion 203, of which—
12	(1) \$500,000 shall be used for the MR&I study
13	under section 202; and
14	(2) \$500,000 shall be used for the regional study
15	under section 203.
16	(b) Feasibility Studies.—There is authorized to be
17	appropriated to the Department of the Interior, for the Bu-
18	reau of Reclamation, for the purpose of conducting the
19	MR&I feasibility study under section 202 and the regional
20	study under section 203, \$3,000,000 for fiscal year 2000,
21	of which—
22	(1) \$500,000 shall be used for the MR&I feasi-
23	bility study under section 202; and
24	(2) \$2,500,000 shall be used for the regional
25	study under section 203.

- 1 (c) Without Fiscal Year Limitation.—All money
- 2 appropriated pursuant to authorizations under this title
- 3 shall be available without fiscal year limitation.
- 4 (d) Availability of Certain Moneys.—The
- 5 amounts made available for use under subsection (a) shall
- 6 be deemed to have been available for use as of the date on
- 7 which those funds were appropriated. The amounts author-
- 8 ized to be appropriated in subsection (b) shall be available
- 9 for use immediately upon appropriation.